

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Connect America Fund)	WC Docket No. 10-90
)	

**REPLY COMMENTS OF
THE UNITED STATES TELECOM ASSOCIATION**

The United States Telecom Association (USTelecom)¹ submits these reply comments in response to the Public Notice (Notice) issued by the Wireline Competition Bureau (Bureau).² In its Notice, the Bureau seeks comment on a Petition for Expedited Waiver (Petition)³ filed by New York State that seeks an expedited waiver of the rules of the Federal Communications Commission (Commission) that require the award of Connect America Fund (CAF) Phase II funding in New York through a competitive bidding process. New York State requests that the Commission waive its rules and make the CAF funding declined by carriers (\$170.4 million) available to New York for allocation as part of the state's upcoming competitive reverse auction.

In 2011, the Commission comprehensively reformed and modernized the Universal Service Fund (USF) and intercarrier compensation (ICC) systems with its USF/ICC Transformation Order to ensure that robust, affordable voice and broadband service is made

¹ USTelecom is the premier trade association representing service providers and suppliers for the telecom industry. Its diverse member base ranges from large publicly traded communications corporations to small companies and cooperatives – all providing advanced communications service to both urban and rural markets.

² Public Notice, *Wireline Competition Bureau Announces Deadlines for Filing Comments and Replies Regarding New York State's Petition for Expedited Waiver of the Connect America Phase II Auction Rules*, DA 16-1180 (released October 13, 2016) (*Notice*).

³ New York State Petition for Expedited Waiver, WC Docket Nos. 10-90, 14-58, 14-259 (submitted October 12, 2016) (*Petition*).

available to Americans (USF/ICC Transformation Order).⁴ The USF/ICC Transformation Order anticipated that some price cap carriers might not accept the model-based support offered through the CAF.⁵ The Commission created a mechanism whereby any funding declined by price cap carriers would be made available to other carriers to serve the declined territories through a competitive bidding process.

As noted in its Petition, New York has launched a \$500 million program to help narrow its digital divide. Similar to the CAF Phase II auction, New York has implemented its broadband program through a reverse auction process that awards state funding to qualified winning bidders with proposals to deliver broadband service to areas of the state lacking high-speed access.⁶ In its Petition, New York seeks a waiver of Commission rules in order to coordinate allocation of the CAF funding with its own broadband auction. New York states that it will distribute CAF funding in accordance with key Commission requirements.

In the CAF II Auction NPRM, the Commission asked “how best to coordinate” its CAF II auction with state initiatives – such as those in New York – in order to achieve shared universal service goals.⁷ In its comments, USTelecom acknowledged concerns raised by certain states where significant amounts of CAF Phase II model-based support were declined by price cap carriers. USTelecom suggested that the Commission address such concerns by identifying a support threshold that contemplates some dedicated amount of funding for states where the model-based support was declined.⁸ This approach could result in states in which

⁴ Report and Order and Further Notice of Proposed Rulemaking, *Connect America Fund*, 26 FCC Rcd 17663, 76 FR 78384, 76 FR 76623, 77 FR 26987, FCC 11-161 (released November 18, 2011) (*USF/ICC Transformation Order*).

⁵ *Id.*, ¶¶ 1190 – 1222.

⁶ *Petition*, p. 2.

⁷ CAF II Auction NPRM, ¶ 218.

⁸ In that proceeding USTelecom suggested a threshold of 25 percent of the model-allocated funding.

support was declined having access to appropriate levels of Phase II funding overall without negating the value of the Commission's competitive bidding process.

In reviewing New York's petition, the Commission also should consider the four key principles "rooted in the Communications Act" that guide its universal service reform efforts.⁹ Among the four principles identified by the Commission were fiscal responsibility and accountability. Regarding the latter, the Commission stated that it would seek "accountability from companies receiving support to ensure that public investments are used wisely to deliver intended results."¹⁰ For example, the Commission's 2016 CAF II Auction Report and Order adopted reporting requirements and annual certifications designed to ensure CAF support recipients comply with their public service obligations. We assume a similar level of oversight would attach to any Federal USF funding distributed by other than the Commission.¹¹

In its role as the federal agency with jurisdiction over the CAF program, the Commission must continue to focus on consumers nationwide. The Commission must ensure that the overall integrity of the CAF program is sufficient enough to serve as many Americans as possible, wherever they are located. In weighing the Petition, the Commission must ensure that it balances any equitable allocation of CAF funds among the states, with the need to ensure the overall integrity of the CAF fund.


⁹ *USF/ICC Transformation Order*, ¶ 11.

¹⁰ *Id.*

¹¹ Report and Order and Further Notice of Proposed Rulemaking, *Connect America Fund*, 81 FR 44414, 31 FCC Rcd. 5949, FCC 16-64, ¶¶ 172-79 (released May 26, 2016) (*CAF II Auction NPRM*).

Respectfully submitted,

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